

Notices of Intent

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Dissolved Oxygen Criteria Revisions for Eastern Lower
Mississippi River Alluvial Plains (LMRAP) Ecoregion
(LAC 33:IX.1123)(WQ091)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.Table 3 (WQ091).

The dissolved oxygen (DO) criteria are being revised, where appropriate, in water quality subsegments in the eastern Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion based on an ecoregion approach; Table 3 in LAC 33:IX.1123 is being revised accordingly. The proposed DO criteria revisions are the result of the findings presented in the Use Attainability Analysis of Inland Rivers and Streams in the Eastern Lower Mississippi River Alluvial Plains Ecoregion for Review of Dissolved Oxygen Water Quality Criteria, which was technically approved by EPA Region 6 on November 25, 2013. Except where the DO criteria have previously been revised, the current Louisiana DO water quality standards are the nationally-recommended criteria of 5 mg/L for freshwater and marine waters, and 4 mg/L for estuarine waters. However, natural, physical conditions (e.g., lack of slope, low flow, and high temperature) in Louisiana prevent many Louisiana water bodies from attaining the nationally-recommended DO standards. The eastern LMRAP Ecoregion is one such area where levels of DO in surface waters are naturally low and the nationally-recommended DO criteria are not attainable throughout the year. Therefore, based on the findings presented in the above referenced Use Attainability Analysis (UAA), the DO criteria for inland streams are being revised to 2.3 mg/L for the months of March through November; for the months of December through February the DO criteria for inland streams will remain as 5.0 mg/L.

Boundaries for 42 subsegments within the eastern LMRAP, the Southern Plains Terrace and Flatwoods, the Terrace Uplands, and the Coastal Deltaic Marshes Ecoregions are being refined based on watersheds; these boundary refinements resulted in the delineation of 21 new subsegments. In addition, descriptions to some subsegments are also being revised, as necessary. These changes are reflected in the revisions to Table 3 in LAC 33:IX.1123.

Supporting documentation for the proposed rule consists of two documents: 1) Use Attainability Analysis of Inland Rivers and Streams in the Eastern Lower Mississippi River Alluvial Plains Ecoregion for Review of Dissolved Oxygen Water Quality Criteria; and 2) Louisiana Water Quality Standards Ecoregions: For Use in Ecologically-Driven Water Quality Standards. The supporting documents for the proposed rule can be viewed at <http://www.deq.louisiana.gov/portal/DIVISIONS/WaterPermits/WaterQualityStandardsAssessment.aspx>. Subsegment delineations can be viewed using the LDEQ Interactive Mapping Application (LIMA) at <http://map.deq.state.la.us/>. Additionally, at this time a potpourri is being noticed in the *Louisiana Register* to announce an update to the Water Quality Management Plan Volume 4: Basin and Subsegment Boundaries. Inaccurate water quality criteria can result in erroneous use impairment decisions that impact many of the state's water quality programs (i.e., assessments, total maximum daily load determinations, wastewater permitting, and implementation of best management practices). Therefore, it is important to establish appropriate and protective dissolved oxygen (DO) criteria that support fish and wildlife propagation. A Use Attainability Analysis (UAA) was conducted to inform the development of ecoregion-based DO criteria in the eastern portion of the Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion. The eastern LMRAP UAA is a continuation of the process which began with a Memorandum of Agreement (MOA) in 2008 between the U.S. Environmental Protection Agency and LDEQ that resulted in the Use Attainability Analysis of Barataria and Terrebonne Basins for Revision of Dissolved Oxygen Water Quality Criteria. The basis and rationale for this proposed rule are to protect waters of the state by establishing appropriate and protective dissolved oxygen criteria that support fish and wildlife propagation. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. Water Quality Management Basins and Ecoregions

1. Basins

| Basin Name | Basin Number |
|------------|--------------|
| *** | |

2. Ecoregions

| Ecoregion Name | Abbreviation |
|---|--------------|
| Atchafalaya River Ecoregion | AR |
| Coastal Chenier Marshes Ecoregion | CCM |
| Coastal Deltaic Marshes Ecoregion | CDM |
| Gulf Coastal Prairie Ecoregion | GCP |
| Lower Mississippi River Alluvial Plains Ecoregion | LMRAP |
| Mississippi River Ecoregion | MR |
| Pearl River Ecoregion | PR |
| Red River Alluvium Ecoregion | RRA |

| Ecoregion Name | Abbreviation |
|--|--------------|
| Sabine River Ecoregion | SR |
| South Central Plains Flatwoods Ecoregion | SCPF |
| South Central Plains Southern Tertiary Uplands Ecoregion | SCPSTU |
| South Central Plains Tertiary Uplands Ecoregion | SCPTU |
| Southern Plains Terrace and Flatwoods Ecoregion | SPTF |
| Terrace Uplands Ecoregion | TU |
| Upper Mississippi River Alluvial Plains Ecoregion | UMRAP |

B. - E. ...

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|---|--|-----------------|--------------------|-----|----------------------------------|---------|-----|----|-----|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO4 | DO | pH | BAC | °C | TDS |
| Atchafalaya River Basin (01) | | | | | | | | | |
| *** | | | | | | | | | |
| Lake Pontchartrain Basin (04) | | | | | | | | | |
| 040101 | Comite River-From Little Comite Creek and Comite Creek at Mississippi state line to Wilson-Clinton Highway | A B C | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040102 | Comite River-From Wilson-Clinton Highway to White Bayou (Scenic) | A B C G | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| *** | | | | | | | | | |
| 040201 | Bayou Manchac-From headwaters to Amite River | A B C | 25 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 150 |
| 040202 | Ward Creek-From headwaters to confluence with Dawson Creek | A B C | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040301 | Amite River-From Mississippi state line to La. Highway 37 (Scenic) | A B C G | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040302 | Amite River-From La. Highway 37 to LMRAP Ecoregion boundary | A B C | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040303 | Amite River-From Amite River Diversion Canal to Lake Maurepas | A B C | 25 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 150 |
| *** | | | | | | | | | |
| 040305 | Colyell Bay; includes Colyell Creek and Middle Colyell Creek-From Hood Road to Colyell Bay | A B C | 25 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 150 |
| 040306 | Amite River-From LMRAP Ecoregion boundary to Amite River Diversion Canal | A B C | 25 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 150 |
| 040307 | West Colyell Creek-From headwaters to Hood Road | A B C | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040308 | Middle Colyell Creek-From headwaters to Hood Road | A B C | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040309 | Colyell Creek-From headwaters to confluence with, and including, Little Colyell Creek | A B C | 25 | 10 | 5.0 | 6.0-8.5 | 1 | 32 | 150 |
| 040401 | Blind River-From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic) | A B C G | 250 | 75 | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. [9] | 6.0-8.5 | 1 | 30 | 500 |
| 040402 | Amite River Diversion Canal-From Amite River to Blind River | A B C | 25 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 150 |

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|---|---|-----------------|--------------------|-----------------|----------------------------------|---------|-----|------|-------|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| 040403 | Blind River—From headwaters to Amite River Diversion Canal (Scenic) | A B C G | 250 | 75 | 2.3 Mar.-Nov.; 3.0 Dec.-Feb. [9] | 6.0-8.5 | 1 | 30 | 500 |
| 040404 | New River—From headwaters to New River Canal | A B C | 250 | 75 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 500 |
| 040501 | Tickfaw River—From Mississippi state line to La. Highway 42 (Scenic) | A B C G | 10 | 5 | 5.0 | 6.0-8.5 | 1 | 30 | 55 |
| 040502 | Blood River—From headwaters to George White Road | A B C | 10 | 5 | 5.0 | 6.0-8.5 | 1 | 30 | 55 |
| 040503 | Natalbany River—From headwaters to La. Highway 22 | A B C | 30 | 20 | 5.0 | 6.0-8.5 | 1 | 30 | 150 |
| *** | | | | | | | | | |
| 040505 | Ponchatoula Creek—From headwaters to La. Highway 22 | A B C | 30 | 20 | 5.0 | 6.0-8.5 | 1 | 30 | 150 |
| 040506 | Tickfaw River—From La. Highway 42 to Lake Maurepas | A B C | 10 | 5 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 55 |
| 040507 | Natalbany River—From La. Highway 22 to Tickfaw River | A B C | 30 | 20 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 150 |
| 040508 | Ponchatoula Creek—From La. Highway 22 to Natalbany River | A B C | 30 | 20 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 150 |
| 040601 | Pass Manchac—From Lake Maurepas to Lake Pontchartrain; includes interlacustrine waters from North Pass to Mississippi River levee | A B C | 1,600 | 200 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.5-9.0 | 1 | 32 | 3,000 |
| *** | | | | | | | | | |
| 040603 | Selsers Creek—From headwaters to Sisters Road | A B C | 30 | 20 | 5.0 | 6.0-8.5 | 1 | 30 | 150 |
| 040604 | South Slough; includes Anderson Canal to Interstate Highway 55 borrow pit canal | A B C | 30 | 20 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 150 |
| 040604-001 | South Slough Wetland—Forested freshwater and brackish marsh located 1.4 miles south of Ponchatoula, directly east of Interstate Highway 55, extending to North Pass to the south and Tangipahoa River to the east | B C | [23] | [23] | [23] | [23] | 2 | [23] | [23] |
| 040605 | Mississippi Bayou and associated canals; includes Dutch Bayou, Reserve Relief Canal and Hope Canal | A B C | 1,600 | 200 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 3,000 |
| 040606 | Selsers Creek—From Sisters Road to South Slough | A B C | 30 | 20 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 150 |
| 040701 | Tangipahoa River—From Mississippi state line to Interstate Highway 12 (Scenic) | A B C G | 30 | 10 | 5.0 | 6.0-8.5 | 1 | 30 | 140 |
| 040702 | Tangipahoa River—From Interstate Highway 12 to Lake Pontchartrain | A B C | 30 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 140 |
| *** | | | | | | | | | |
| 040704 | Chappeeela Creek—From La. Highway 1062 to Tangipahoa River | A B C G | 20 | 20 | 5.0 | 6.0-8.5 | 1 | 30 | 140 |

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|---|---|-----------------|--------------------|------|------------------------------|---------|-----|------|-------|
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| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO4 | DO | pH | BAC | °C | TDS |
| 040705 | Bedico Creek-From headwaters to Tangipahoa River | A B C | 30 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 140 |
| 040801 | Tchefuncte River-From headwaters to US Highway 190; includes tributaries (Scenic) | A B C G | 20 | 10 | 5.0 | 6.0-8.5 | 1 | 30 | 110 |
| 040802 | Ponchitolawa Creek-From headwaters to US Highway 190 (Scenic) | A B C G | 850 | 135 | 5.0 | 6.0-8.5 | 1 | 30 | 1,850 |
| 040803 | Tchefuncte River-From La. Highway 22 to Lake Pontchartrain (Estuarine) | A B C | 850 | 135 | 4.0 | 6.0-8.5 | 1 | 30 | 1,850 |
| *** | | | | | | | | | |
| 040806 | East Tchefuncte Marsh Wetland-Freshwater and brackish marsh located just west of Mandeville, bounded on the south by Lake Pontchartrain, the west by Tchefuncte River, the north by La. Highway 22, and the east by Sanctuary Ridge | B C | [23] | [23] | [23] | [23] | 2 | [23] | [23] |
| 040807 | Tchefuncte River-From US Highway 190 to Bogue Falaya River; includes tributaries (Scenic) | A B C G | 20 | 10 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 110 |
| 040808 | Tchefuncte River-From Bogue Falaya River to La. Highway 22 (Scenic) | A B C G | 850 | 135 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 1,850 |
| 040809 | Black River-From headwaters to La. Highway 22 | A B C | 850 | 135 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 1,850 |
| 040901 | Bayou LaCombe-From headwaters to Interstate Highway 12 (Scenic) | A B C G | 30 | 30 | 5.0 | 6.0-8.5 | 1 | 30 | 150 |
| 040902 | Bayou LaCombe-From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | 835 | 135 | 4.0 | 6.0-8.5 | 1 | 32 | 1,850 |
| 040903 | Bayou Cane-From headwaters to US Highway 190 (Scenic) | A B C G | 30 | 30 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 150 |
| 040904 | Bayou Cane-From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.0-8.5 | 1 | 32 | N/A |
| 040905 | Bayou Liberty-From headwaters to LMRAP Ecoregion boundary | A B C | 250 | 100 | 5.0 | 6.0-8.5 | 1 | 32 | 500 |
| 040906 | Bayou Liberty-From La. Highway 433 to Bayou Bonfouca; includes Bayou de Chien (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 | 32 | N/A |
| 040907 | Bayou Bonfouca-From headwaters to La. Highway 433 | A B C | 250 | 100 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 500 |
| 040908 | Bayou Bonfouca-From CDM Ecoregion boundary to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 | 32 | N/A |
| *** | | | | | | | | | |
| 040912 | Bayou LaCombe-From Interstate Highway 12 to US Highway 190 (Scenic) | A B C G | 30 | 30 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 150 |

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|---|--|-----------------|--------------------|-----|------------------------------|---------|-----|----|------|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO4 | DO | pH | BAC | °C | TDS |
| 040913 | Bayou LaCombe-From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine) | A B C G | 835 | 135 | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 1850 |
| 040914 | Bayou Cane-From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | N/A |
| 040915 | Bayou Liberty-From LMRAP Ecoregion boundary to La. Highway 433 | A B C | 250 | 100 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | 500 |
| 040916 | Bayou Paquet-From headwaters to Bayou Liberty (Estuarine) | A B C | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | N/A |
| 040917 | Bayou Bonfouca-From La. Highway 433 to CDM Ecoregion boundary (Estuarine) | A B C | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | N/A |
| *** | | | | | | | | | |
| 041002 | Lake Pontchartrain-East of US Highway 11 bridge (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 | 32 | N/A |
| 041101 | Bonnet Carre Spillway | A B C | 250 | 75 | 2.3 Mar.-Nov.; 5.0 Dec.-Feb. | 6.0-8.5 | 1 | 30 | 500 |
| 041201 | Bayou Labranche From headwaters to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | N/A |
| 041202 | Bayou Trepagnier-From Norco to Bayou Labranche (Scenic)(Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 | 32 | N/A |
| *** | | | | | | | | | |
| 041204 | Bayou Traverse-From headwaters to LMRAP Ecoregion boundary (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 | 32 | N/A |
| *** | | | | | | | | | |

ENDNOTES:

[1] - [8] ...

[9] The site-specific DO criterion has been revised to incorporate ecoregionally-based critical period DO criteria.

[10] - [24] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010), amended by the Office of the Secretary, Legal Division, LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ091. Such comments must be received no later than August 5, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ091. These proposed regulations are available on the

Public Hearing

A public hearing will be held on July 29, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dissolved Oxygen Criteria Revisions for Eastern Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant implementation costs or savings to state or local governmental units resulting from the proposed rule. The rulemaking is necessary in order to incorporate the revised dissolved oxygen (DO) criteria into the water quality regulations. The proposed revisions are the result of the findings presented in the Use Attainability Analysis (UAA) of Inland Rivers and Streams in the Eastern Lower Mississippi River Alluvial Plains Ecoregion for Review of Dissolved Oxygen Water Quality Criteria.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment due to the proposed rule.

Herman Robinson, CPM
Executive Counsel
1506#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Emission Offsets (LAC 33:III.504)(AQ354)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.504.F (AQ354).

This rulemaking will allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and the Environmental Protection Agency (EPA). However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas).

In order to construct a new major stationary source or major modification in a nonattainment area, LDEQ's Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504 require the owner or operator to offset the increase in emissions of the nonattainment pollutant(s) resulting from the new construction or modification.

Currently, for all regulated pollutants other than PM_{2.5}, emission reductions claimed as offset credit must be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required. For example, increases in NOX emissions must be offset with decreases in NOX emissions; increases in VOC emissions must be offset with decreases in VOC emissions.

However, in ozone nonattainment areas, both NOX and VOC are regulated as precursors to ozone. Accordingly, when a project triggers NNSR for ozone, reductions in either NOX or VOC emissions can satisfy the requirement that offsets provide a net air quality benefit, provided they are applied at the proper ratio as determined by photochemical models such as the Comprehensive Air Quality Model with Extensions (CAMx).

This rulemaking will allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas). The basis and rationale for this rule are to allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.